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In re Application of	:	DECISION ON
Rice III et al	:	
Application No.: 10/534,571	:	
PCT No.: PCT/US2003/036634	:	PETITION UNDER
Filing Date: 13 November 2003	:	
Attorney's Docket No.: 56029-54474	:	
For: Highly Permissive... Virus Replication	:	37 CFR 1.78(a)(6)

This is in response to applicant's communication "PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY (37 CFR 1.78(a)(3))" filed 08 November 2007, which is being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that:

(1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii);

(2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and

(3) the petition is being construed to have the proper statement of unintentional delay with respect to the delayed claim under 35 U.S.C. § 119(e) rather than the claim under 35 U.S.C. § 120 as the petition has not added a benefit claim under 35 USC 120. If this is incorrect, petitioner must immediately notify the Office of PCT Legal Administration.

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(6) is **GRANTED**.

This application will be forwarded to the proper Technology Center.

Any questions concerning this decision may be directed to Rafael Bacares at (571) 272-3276. All other inquiries concerning either the examination procedure or status of the application should be directed to the Technology Center.



Milef Boris
PCT Legal Examiner
Office of Legal Administration



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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
10/534,571	10/11/2005	1648	1930	56029-54474	38	5

CONFIRMATION NO. 4463

CORRECTED FILING RECEIPT



OC000000029139779

70119
THOMPSON COBURN LLP
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ONE U.S. BANK PLAZA
SAINT LOUIS, MO 63101

Date Mailed: 04/01/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Charles M. Rice III, New York, NY;
Keril J. Blight, St. Louis, MO;

Power of Attorney: The patent practitioners associated with Customer Number 21888

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US03/36634 11/13/2003
which claims benefit of 60/426,256 11/13/2002

Foreign Applications

If Required, Foreign Filing License Granted: 05/09/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/534,571**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

HIGHLY PERMISSIVE CELL LINES FOR HEPATITIS C VIRUS RNA REPLICATION

Preliminary Class

435

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Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

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Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

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LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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